

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division of Water

(Amendment)

401 KAR 8:300. Lead and copper.

RELATES TO: 40 C.F.R. 141.42, 141.43, 141.80-141.91, 141.154, 42 U.S.C. 300f-300j-26,
EO 2009-538 [~~2008-507, 2008-531~~]

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110(2), 40 C.F.R. 141.43,
141.80-141.91, 42 U.S.C. 300f-300j-26, EO 2009-538

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2)
authorize the cabinet to promulgate administrative regulations for the regulation and control of
the purification of water for public and semipublic use. EO 2009-538, effective June 12, 2009,
establishes [~~2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and~~
~~Public Protection Cabinet and establish~~] the new Energy and Environment Cabinet. This
administrative regulation bans lead in drinking water facilities and provides standards for lead
and copper in drinking water.

Section 1. A public water system shall meet the requirements for control of lead corrosivity
and copper as established in:

(1) 40 C.F.R. 141.42, 141.43, 141.82, and 141.91[~~, effective July 1, 2007~~]; and

(2) 40 C.F.R. 141.80, 141.81, 141.83 through 141.90, and 141.154[~~, effective December 10,~~
~~2007~~].

401 KAR 8:300, “Lead and copper” approved for promulgation:

Date

Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 26, 2010 at 5:00 P.M. (Eastern Time) at 300 Fair Oaks Lane, Conference Room 301D, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 2010, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2010. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Abigail Powell, Regulations Coordinator
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 401 KAR 8:300

Contact Person: Peter Goodman, Assistant Director

(1) Provide a brief summary of:

- (a) What this administrative regulation does:** This administrative regulation establishes analytical methods, monitoring requirements, and action levels for public water systems to follow for the control of lead and copper in public drinking water systems.
- (b) The necessity of this administrative regulation:** Lead and copper in drinking water can be harmful to public health.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** The control of lead and copper in drinking water is essential to protect public health.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation:** This administrative regulation updates the federal citations. The substantive requirements of the existing regulations remain unchanged.
- (b) The necessity of the amendment to this administrative regulation:** The amendment will allow future changes in federal regulatory requirements to be more easily adopted.
- (c) How the amendment conforms to the content of the authorizing statutes:** The updated citations will make the administrative regulation conform exactly to federal requirements for lead and copper.
- (d) How the amendment will assist in the effective administration of the statutes:** This amendment will allow future changes in federal regulatory requirements to be more easily adopted.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation applies to 479 public water systems.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** This administrative regulation updates the federal citations. The substantive requirements of the existing regulations remain unchanged.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** The costs of complying with this

administrative regulation remain unchanged.

- (c) **As a result of compliance, what benefits will accrue to the entities identified in question (3):** Public and semipublic water systems will benefit by the assurance that the requirements of this administrative regulation are no more stringent than the federal requirements.
- (5) **Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**
- (a) **Initially:** The requirements of this administrative regulation remain unchanged from regulations currently in place. Costs of implementation will remain the same.
- (b) **On a continuing basis:** The requirements of this administrative regulation remain unchanged from regulations currently in place. Costs of implementation will remain the same.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation?** The source of funding for the drinking water program is federal funds provided to administer the requirements of the Safe Drinking Water Act.
- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:** An increase in fees will not be necessary to implement this amendment.
- (8) **State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:** This administrative regulation does not establish fees or directly or indirectly increase fees.
- (9) **TIERING: Is tiering applied? (Explain why or why not)**
Yes. This administrative regulation differs in requirements depending on the number of people served by the system.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation #: 401 KAR 8:300

Contact Person: Peter Goodmann, Assistant Director

- 1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?**

Yes X No

If yes, complete questions 2-4.

- 2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

This administrative regulation applies to public water systems. Any unit of state or local government that owns or operates a public water system will be impacted by this administrative regulation.

- 3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems. The Safe Drinking Water Act (42 U.S.C. 300f through 300j-26) and 40 C.F.R. 141.42, 141.43, and 141 Subpart I, Sections 141.80 through 141.91 establish analytical methods, monitoring requirements and action levels for public water systems to follow for the control of lead and copper.

- 4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for local governments for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for local governments in subsequent years.

(c) How much will it cost to administer this program for the first year? The amendments to this administrative regulation simply update the federal citations; they will not impose any additional cost in subsequent years.

(d) How much will it cost to administer this program for subsequent years? The amendments to this administrative regulation simply update the federal citations; they will not impose any additional cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation#: 401 KAR 8:300

Contact Person: Peter Goodman, Assistant Director

1. Federal statute or regulation constituting the federal mandate.

The Safe Drinking Water Act (42 U.S.C. 300f through 300j-26), 40 C.F.R. 141.42, 141.43, and 141 Subpart I, Sections 141.80 through 141.91.

2. State compliance standards.

KRS 224.10-100(28) and 224.10-110

3. Minimum or uniform standards contained in the federal mandate.

40 C.F.R. 141.40 C.F.R. 141.42, 141.43, and 141 Subpart I, Sections 141.80 through 141.91 establish analytical methods, source water treatment requirements, monitoring requirements and action levels for public water systems to follow for the control of lead and copper.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?

No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.